

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WAYNE SYMMONDS,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS et al.,

Defendants.

CASE NO. 3:15-CV-05535-BHS-DWC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

The District Court has referred this 42 U.S.C. § 1983 action to United States Magistrate Judge David W. Christel. Currently pending in this action is Plaintiff's Motion for Appointment of Counsel ("Motion"). Dkt. 19. After a review of the Motion and relevant record, Plaintiff's Motion for Appointment of Counsel is denied without prejudice.

No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is discretionary, not mandatory"). However, in "exceptional circumstances," a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28

1 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*
2 *grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the
3 Court must evaluate both “the likelihood of success on the merits [and] the ability of the
4 [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.”
5 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (*quoting Weygandt v. Look*, 718
6 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp
7 of his case or the legal issues involved and an inadequate ability to articulate the factual basis of
8 his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

9 Plaintiff’s Motion contains no reasons supporting his need for court appointed counsel.
10 Dkt. 19. The Court notes his case does not involve complex facts or law, and Plaintiff has not
11 shown an inability to articulate the factual basis of his claims in a fashion understandable to the
12 Court. Plaintiff has also not shown he is likely to succeed on the merits of his case. Accordingly,
13 Plaintiff’s Motion for Appointment of Counsel (Dkt. 19) is denied without prejudice.

14 Dated this 11th day of January, 2016.

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17 David W. Christel
18 United States Magistrate Judge
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